

## REMARKS

Reconsideration is respectfully requested in light of the foregoing amendments and following remarks. Entry of the amendment is respectfully requested since it would reduce the issues on appeal and does not introduce new matter.

Claims 1-4 and 6-9 are pending.

Claims 1, 6 and 7 are amended. Claim 1 has been amended to address points raised in the Official Action and to correct an obvious error. Claims 6 and 7 were also amended to address a point raised in the Official Action. Support for the enhancement amount was derived from Table 6 by simple calculation. The numbers, existing in the table, were used to determine the magnitude of the enhancement. No new matter is believed to have been introduced.

The specification, as requested, has been amended to correct the informality noted by the Examiner.

A signed Rule 67 declaration will be submitted upon receipt by the undersigned. A request for a corrected filing receipt correction will be separately filed pursuant the Examiner's request.

A substitute specification will be submitted upon an indication of allowable subject matter.

The withdrawal of the rejection of claims 1-4 under 35 USC 112, first paragraph, is noted with appreciation.

### Rejections under 35 USC 112, First Paragraph

Claims 1-4 and 6-9 are rejected under 35 USC 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant respectfully traverses.

Please note that the composition is defined by the claimed proteosome and gp160 ratio range. The enhancement characteristic is inherent with the composition and was merely calculated from the data present in the table. Its presence does not change the disclosed composition nor its components. It is not clear why the already disclosed composition would

now be less apparent to the skilled artisan. It is respectfully requested that the rejection be withdrawn.

### **Rejections under 35 USC 112, Second Paragraph**

Claims 1-4 and 6-9 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out distinctly claim containing subject matter which applicant regards as his invention. Applicant respectfully traverses.

Claim 1 has been amended to address the point raised in the Official Action which renders the rejection as stated moot. Withdrawal of the rejection is respectfully requested.

### **Rejections under 35 USC 103**

Claims 1-4 and 6-9 are rejected under 35 USC 103 as being unpatentable over Lowell *et al.* (U) or Lowell *et al.* (V) or Smith *et al.* (W) or Avraham *et al.* (X) in view of Ratner *et al.* (Y). Applicant respectfully traverses.

Applicant again submits that the rejection as framed employs an obvious-to-try rationale. As noted by the Examiner, the primary references do not teach gp160 but merely teach the use proteosomes in a vaccine context. Ratner is cited for its teaching of the existence of gp160. The Examiner states that Ratner *et al.* teach the complete genome of HIV (HTLV-III) including the sequence of gp160.

The Examiner then proposes that since envelope proteins of viruses are antigenic, it would have been obvious to first isolate and purify gp160 and then employ it as the "antigenic" protein/polypeptide in the process and compositions taught by the primary references.

It is submitted that there is a high degree of unpredictability in the vaccine, immunology arts. With regard to an expectation of success, none of the primary references are concerned with the antigenic material of a retrovirus nor do they suggest a reasonable expectation of obtaining the results shown in Table 6. These results are not a minuscule antigenic response. Please consider the enhanced levels shown in the Table, 1.8 (claims 3, and 4) to 3.5 fold of the base value (gp160/alum).

In light of these is, it is submitted that a proper *prima facie* case has not been established and the rejection withdrawn. This is respectfully requested.

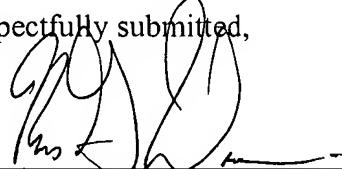
### Conclusion

Having addressed all the rejections and objections, allowance of the application is believed to be in order. A notice to this effect is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 210-380** referencing docket no. 378332000110. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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By:

  
Thomas G. Wiseman  
Registration No. 35,046

Morrison & Foerster LLP  
2000 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006-1888  
Telephone: (202) 887-1678  
Facsimile: (202) 887-0763